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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,052	12/04/2003	Shahab M. Sayeedi	CE11765R	8941
22917	7590	12/05/2007		
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			EXAMINER JAIN, RAJ K	
			ART UNIT 2616	PAPER NUMBER
			NOTIFICATION DATE 12/05/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.Schaumburg@motorola.com  
APT099@motorola.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/728,052	<b>Applicant(s)</b> SAYEEDI, SHAHAB M.	
	<b>Examiner</b> Raj K. Jain	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 27 and 28 are objected to because of the following informalities: The subject claims are duplicate, suggest deleting one of the claims. Appropriate correction is required.

Claims 30 objected to because of the following informalities: In line 4 the word "fundicated" should be "dedicated". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-14 and 16-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Kumar et al. (USP 6,757,270 B1).

Regarding claim(s) 1, 15, 33, 42 and 48 Kumar teaches a method for providing forward link packet data service to mobile stations (MSs) in a mobile communication system (Fig.1, abstract)), the method comprising: providing, by a cell (Fig. 6, base station) in the mobile communication system, data transmission services via a forward link (Base station transmits data bursts via forward link to Mobile station; col 15 lines 65

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- 67); indicating, by the cell, to an MS that the cell will not provide data transmission service to the MS via the forward link in order to force the MS to select another cell for at least the forward link data transmission service (Fig. 6, col 15 line 39 – col 16 line 20, the primary BS terminates data transmission forcing the mobile station to seek another base station accomplished by the pilot signal measurements (PSMM) to continue the data transmissions).

Regarding claim(s) 2, 9, Kumar discloses data data transmission services to the MS and wherein indicating that the cell will not provide data transmission service to the MS comprises indicating, by the cell, that the cell will no longer provide data transmission service to the MS via the forward link (col 16 lines 9-13).

Regarding claim(s) 3, Kumar discloses that the cell will not provide data transmission service to the MS via the forward link comprises sending a channel assignment message to the MS that indicates that the cell does not support a forward link (col 6 lines 2—25).

Regarding claim(s) 4, 5, Kumar discloses indicating to the MS that the cell will not provide data transmission service to the MS via the forward link comprises sending a channel assignment message to the MS that indicates that the cell is not part of an active set of the MS (col 10 lines 53-59; col 15 lines 60-64).

Regarding claim(s) 6, 7, 34, 35, Kumar discloses determining whether the cell is presently available comprises determining, when creating an active set for the MS, whether the cell is presently available to provide data transmission service to the MS via the forward link of the cell (col 11 lines 30-52).

Regarding claim(s) 8, 26, 36, 38, 43, 44, Kumar discloses determining whether the cell is presently available to provide data transmission service to the MS via the forward link of the cell comprises receiving an indication that the cell is presently unavailable to provide data transmission service to the MS via the forward link of the cell (col 18 lines 60-65).

Regarding claim(s) 10, Kumar discloses providing data transmission services comprises providing data transmission services to the MS by the cell via the forward link (Fig. 1).

Regarding claim(s) 11, 12, 31, 32, 39, 40, 45, 46, 49, and 50, Kumar discloses indicating to the MS that the cell will not provide data transmission service to the MS via the forward link comprises sending, by the cell, a Universal Handoff Direction message (UHDM) that indicates that the cell does not support a forward link (col 10 lines 6-24).

Regarding claim(s) 13, 27, 28, Kumar discloses rein indicating to the MS that the cell will not provide data transmission service to the MS via the forward link comprises signaling, by the cell, a network initiated cancellation of the MS's present cell selection of the cell indicating a need for the MS to select an alternate cell to provide data transmission service to the MS via a forward link (col 15 – col 16).

Regarding claim(s) 16-18, Kumar discloses the indication that the MS intends to switch comprises receiving the indication by the source BS from the MS via the serving cell and wherein the source BS comprises the serving cell and is a serving BS of the MS (Fig. 6, col 15 lines 39-63; col 16 lines 1-27).

Regarding claim(s) 19-23, Kumar discloses determining whether the target cell is presently available to provide data transmission service to the MS via the forward link of the target cell comprises receiving an indication that the target cell is presently unavailable to provide data transmission service to the MS via the forward link of the target cell (Figs. 5 & 6, col 18 lines 60-65).

Regarding claim(s) 24, 41, Kumar discloses subsequent to receiving the indication that the target cell is presently unavailable, receiving an indication that the target cell is available to provide data transmission service to the MS via the forward link of the target cell; sending an indication to the MS that the target cell is available to provide data transmission service to the MS via the forward link of the target cell (col 16 lines 1-24).

Regarding claim(s) 25, Kumar discloses determining whether the target cell is presently available to provide data transmission service to the MS via the forward link of the target cell comprises sending an indication to a target BS that the MS intends to switch to the forward link of the target cell for data transmission service (general specs the procedure for switching BS is via the handoff procedures).

Regarding claim(s) 29, 30, 37, 47, 51 and 52 Kumar discloses sending the indication to the MS that the target cell is presently unavailable to provide data transmission service to the MS via the forward link of the target cell comprises sending the indication to the MS via a forward packet data control channel (F-PDCCH) of the serving cell (col 2 lines 16-22).

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***Response to Arguments***

Applicant's arguments with respect to claims 1-14 and 16-52 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raj K. Jain whose telephone number is 571-272-3145. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

***Raj K. Jain***

***/Raj K. Jain/***

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